

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7734

BILL NUMBER: SB 549

NOTE PREPARED: Jan 17, 2003

BILL AMENDED:

SUBJECT: Internet Sale of Cigarettes.

FIRST AUTHOR: Sen. Lanane

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: The bill provides that the state may bring suit against a person for violating the federal Jenkins Act. It requires a person who sells cigarettes by mail, telephone, or Internet order to notify the buyer that the buyer is responsible for unpaid state cigarette taxes. The bill provides a civil penalty for failure to notify a buyer that the buyer is responsible for unpaid cigarette taxes.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Attorney General:* This bill would allow the Office of the Attorney General to bring suit against out-of-state cigarette merchants selling via the phone, the Internet, or through the mail if the merchant either does not comply with the federal Jenkins Act, or does not follow specific guidelines relating to the sale of cigarettes in Indiana. While the impact of this bill on the Attorney General's office will depend on the Office's specific action, it is estimated that the provision could require the hiring of two additional employees.

This bill does not contain an appropriation. The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. As on January 13, 2003 the Attorney General reported 56 vacancies. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Background Information: The federal Jenkins Act requires out-of-state sellers of tobacco products that ship

to Indiana to file with the Department of State Revenue. The Act also requires these sellers to send copies of each every invoice of sales to cigarette sales to the Department monthly. The invoice must state the name and address of the person to whom the shipment was made, the brand, and the quantity shipped.

Explanation of State Revenues: *Cigarette Tax Revenue:* The bill would require merchants who sell cigarettes through direct mail or the Internet to include a notice on each package that advises purchasers that they are responsible for remitting the state's Cigarette Tax to the Department of State Revenue. The impact of this provision on Cigarette Tax collections is unknown.

Cigarette Tax revenue is deposited in the state General Fund (83.97%), the Mental Health Fund (0.94%), the Cigarette Tax Fund (6.60%), and the Pension Relief Fund (8.49%).

Penalty Provisions: The bill provides that a merchant who violates the bill's provisions is subject to civil penalties ranging from \$1,000 to \$10,000 depending upon the frequency in which the provisions are violated. Additionally, the bill provides that the Attorney General may recover attorney's fees from persons failing to comply with the Jenkins Act.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Attorney General's Office; Department of State Revenue.

Local Agencies Affected:

Information Sources: Jennifer Thuma, Legislative Counsel, Attorney General's Office, 233-6143

Fiscal Analyst: John Parkey, 317-232-9854